

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF:) CASE NO. BK06-80006-TJM
) A06-8124-TJM
WBE COMPANY, INC.,) CHAPTER 7
)
 Debtor(s).
WBE COMPANY, INC., a Nebraska)
Corporation,)
)
 Plaintiff,)
)
vs.)
)
CITY OF OMAHA,)
)
 Defendant.)

ORDER

Hearing was held in Omaha, Nebraska, on June 21, 2010, regarding the Motion to Compel, filed by JMN Construction, LLC, Filing #1310 in the adversary proceeding and Filing #786 in the bankruptcy case. Theodore Boecker, Jr., appeared as special counsel for the trustee; David Hicks appeared for the debtor; Michelle Peters, Robert Hamer, and RoseMarie Horvath appeared for the City of Omaha; Christopher Pfanstiel appeared for Dolores Wiekhorst, Scott Wiekhorst and Kurt Wiekhorst; Brian Koenig appeared for JMN Construction, LLC; and Richard Myers appeared as trustee.

The moving party, JMN Construction, LLC, is a creditor of Kurt Wiekhorst, an officer of the debtor. Mr. Wiekhorst has an agreement with the Chapter 7 Trustee of WBE whereby he agreed to provide information and litigation aid to the trustee and his trial counsel in return for a percentage of the net proceeds based upon a negotiated formula.

The litigation between the WBE estate and the City of Omaha has been settled and an order approving the settlement is being filed contemporaneously herewith. Such approval vests Mr. Wiekhorst's contractual interest in the proceeds of the settlement. At the hearing on the motion to approve the settlement and this motion, it was agreed on the record by counsel for Mr. Wiekhorst that his percentage of the net proceeds could be paid by the trustee directly to the moving party, up to the amount of the moving party's claim. Mr. Wiekhorst was in the courtroom at the time such representation was made by counsel.

The motion is granted. Once the trustee receives the settlement proceeds and the settlement is finalized, the trustee is authorized to calculate the amount due Mr. Wiekhorst, and give Mr. Wiekhorst notice that such amount will be delivered to counsel for the moving party. Mr. Wiekhorst should have an opportunity to object, if he feels the numbers are incorrect, but no objection to the ultimate transfer from the trustee to the moving party will be entertained.

IT IS ORDERED that the Motion to Compel, Filing #1310 in the adversary proceeding and

Filing #786 in the bankruptcy case, is granted.

DATED: July 20, 2010

BY THE COURT:

/s/ Timothy J. Mahoney
United States Bankruptcy Judge

Notice given by the Court to:

Theodore Boecker, Jr.
David Hicks
Michelle Peters
Robert Hamer
RoseMarie Horvath
Christopher Pfanstiel
*Brian Koenig
Richard Myers
U.S. Trustee

Movant (*) is responsible for giving notice to other parties if required by rule or statute.